11-27—20,000—15-11-46

Home. (1941) Department

Ms. SERIES.

(10)

G.O. No. 2497

Dated 26th May 1941.

[Despatch Abstract.]

Establishment - South Kanara District - J.M. Patro - Retired Process Server, District Court, South Kanara - Leave Salary overdrawn - Waiver of recovery and refund of amount so far recovered - Sanctioned.

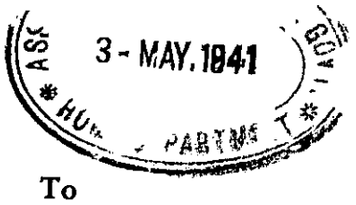
13608/F
3-5-41

H.Ct. No. 4.—5,002—23-10-39.

R.O.C. No. 2374/1941.B3

From

S. P. Thompson Esquire, I.C.S.
Registrar of the High Court of Judicature,
Madras.



To

The Secretary to Government of Madras,
Home Department (with enclosures).

Dated, Madras, the 1st May ***19*** 41.

Sir,

Subject: - Establishment - J. M. Patro, Retired Process Server, District Court of South Kanara - Leave salary overdrawn - Waiver of recovery - application for - Forwarded.

I am directed to forward for orders of Government a petition dated 28th March 1941 from J. M. Patro, Retired Process Server of the District Court of South Kanara together with a copy of letter Dis.No.2118 dated 9-4-1941 from the District Judge of South Kanara on the subject cited above. The Honourable Judges consider that, though the petitioner does not seem to have any case, if the matter is strictly viewed, it is, on the other hand, an undoubted hardship when a man at the end of long service is compelled to lose part of his pension for excess leave salary once given to him owing to the mistake of the authority sanctioning the leave.

I have the honour to be,

Sir,

Your most obedient servant,

REGISTRAR.

KLN

150

Copy of letter Dis. No.2118 dated the 9th April 1941 from the District Judge, South Kanara, Mangalore, to the Registrar, High Court of Judicature, Madras.

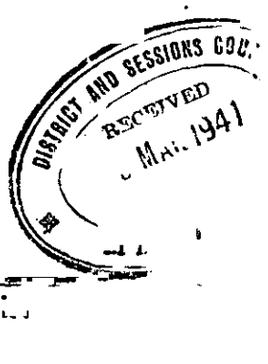
I have the honour to forward herewith a petition (addressed to Government) by J. M. Patrao, a retired process server of this Court.

2. The process server was on commuted furlough on medical certificate for 1 month and 19 days from 5-3-1937 to 4-4-1937 and from 12-11-1938 to 30-11-1938 and was granted full pay during those periods as no substitute was appointed in his place. When after his retirement his pension application was sent to the Accountant General, the Accountant General pointed out that the grant of full pay was irregular as commuted furlough on full pay on medical certificate is not admissible to an inferior servant under Article 325-A C.S.R. as corrected. A sum of Rs.12-4-0 at Rs.7-8-0 per month has been ordered to be recovered from the pension of the process server. He applies for waiver of this recovery.

3. This is a case of real hardship. During a long and faithful service of 39 years and 9 months this process server has availed of only 5 months and 24 days leave in all-5 months and 6 days on allowances and 18 days without allowances. He says that he must have worked 10 days every year during the vacation as guard. There is nothing on record that he did so. All that can be said is that Process Servers are usually given 10 days guard duty during the vacation.

KMN

G.O. 2187 41



29 MAR 1941

To

The Secretary to Government,
Home Department,
Through Madras.
The Accountant-General,
and Madras
The District Judge,
South Kanara.

Humble petition of J.M.Patrao, retired Process Server, District Court, Mangalore, residing at Lourdes view, Kankanady, P.O. Mangalore.

Dated 28th March 1941.

Sir,

I beg to submit the following few lines for favour of consideration and favourable orders.

2. I served as a Process Server for a period o 39 years 9 months in the District Court, Mangalore from 1-4-1901 to 31-12-1940, discharging my duties to the entire satisfaction of my superiors. During these periods the leave I was entitled to and that taken by me is given below:

I. Leave admissible with allowance.

	Year	Month	Da
(a) (i) Privilege leave	3	7	1
(ii) Furlough	5	0	0
Total	8	7	1

II. Leave granted with allowance.

(b) (i) Privilege leave	0	2	0
(ii) Furlough on half average pay	0	1	17
(iii) Furlough on full average pay	0	1	19*
	0	5	6

i.e. from 5-3-1937 to 4-4-1937 and 12-11-1938 to 30-11-1938.

(c) Leave taken without allowance.	0	0	18

After I retired, it was held by the Accountant General, Madras when my pension papers were sent up to him that the leave granted under II b (iii) above i.e., for a period of 1 month and 19 days on full pay was

was irregular and inadmissible under Article 325 A.C.S.R. as corrected by C.S.No. 92 dated 18-12-1934. The Accountant-General required that the overdrawn leave salary, which was Rs. 12-4-0 at Rs. 7-8-0 per mensem should be regularized or if it should be recovered from my pension a letter of consent may be obtained from me and sent. Being ignorant and under the impression that recovery was inevitable I gave a statement to the effect that the overdrawn leave salary may be recovered from my pension at Rs. 2/- per mensem. Accordingly, the recovery has been ordered by the Accountant-General and Rs. 4/- already recovered from my pension for --- January and February 1941.

4. I now understand that there have been cases of this kind in other departments wherein recoveries were waived by the Accountant-General. The excess leave salary relates to the period 1937 and 1938 and it was paid to me as it was then considered that I was entitled for it. I am therefore not responsible for this overpayment. To recover this amount after my retirement works great hardship on a low-paid servant like myself. I am one with a family having no other sources of income to eke out my livelihood and have entirely to depend on my pension which is Rs. 6/- per mensem. If this recovery is to continue, I shall have to manage with Rs. 4/- per mensem for another 4 more months and I leave it to the benign Government to decide whether this would be sufficient to eke out the livelihood of a family man in a town like Mangalore.

5. Though I belong to the Vacation Department, we process servers have to work for 10 days each year during vacation. If this is considered, I believe I

I am entitled for full leave salary during the period for which the recovery is ordered, as there was no substitute appointed in my place. This aspect of the question may kindly be considered. Under F.R. 81 (c), it has been laid down that even when credit leave is granted and the Government servant fails to earn it by subsequent return to duty, he should not be penalized.

6. I have been a faithful and most humble servant of Government for about 40 years and considering the negligible amount of leave taken by me whilst in service as shown in para 2 supra I respectfully pray that the Government may be graciously pleased to take a sympathetic view of my case and order waiver of the recovery of Rs. 12-4-0 from my pension. The recoveries already made may kindly be ordered to be refunded to me. It is really very hard to be told to refund now what was paid to me about 3 to 4 years ago.

I beg to remain,
Sir,
Your most obedient servant,

K. Bhatrao

6.

House 12.88

p.1 cf. C. 13608 F.

From the High Court Roe No. 2874/41 BB d. 1.

BB. - S. Kamara vs. - J. M. Patro - Messr

process server - leave salary

overdrawn - waiver of recovery.

A.S.

J. M. Patro, a process server of the BB. court, S. Kamara (now retired) was irregularly granted leave on full pay from 6.3.37 to 4.4.37 and from 12.11.38 to 30.11.38. The overpayment made to him during those periods, i.e. a sum of Rs. 12-4-0 was ordered to be recovered from the pension of the process server and the petitioner was asked to give a letter of consent for the recovery of the over-drawn leave salary from his pension. The Petr. says that he gave a letter of consent accordingly and of ignorance and under the impression that the recovery was inevitable, ~~and~~ A sum of Rs. 4/- has already been recovered by the BB at Rs. 2/- a month for Jan. & Feb. 41. In the circumstances explained by him in paras 4-6 on pp 4-5 of the Petn. request

M - pp 3-4 cf.
Para 2 - p 2 cf.

M - p 4 cf.

B - p 2 cf.

K - p 4 cf.

that the Govt. may order waiver of recovery of Rs. 12-4-0 from his pension and direct the refund of the sum already recovered. Please see the recommendation of the D. Judge, Dharwar in S. Kanara and the Hon'ble the Judge of the High Court at A' are pp 1-2 of. For orders whether in view of the above recommendation the request may be granted. Finance may see for remarks.

12.5.41.

13/5

14/5

S

14.5.41.

Finance.

Home No. 1360 B-E-1/41
16.5.41

Finance Dept.

As recovery commenced in January '41, a sum of Rs 10/- would have been already recovered by now; and only one more instalment of Rs 2-4-0 is due for recovery on the 1st of June 1941. If the petitioner is to be given any relief it seems that what has been recovered should also be repunded. It is for orders whether this may be agreed to in view of A on p 2 ante.

17.5.41

Fin. No. 5111/0-1
12541

15499 E
21/5/41

Fin. Home

8.

2/
19/5

Item 7

For orders.

19.5.41.

Adv. 3.

Cannot recommend grant of appeal by Crimes.

20/5

ASSISTANT SECRETARY TO GOVT. 21 MAY. 1941 HOME DEPARTMENT

52 annas

HOME SECRETARY GOVT OF MADRAS 21 MAY 1941

A.S

draft order rules. for approval

23.5.41.

2315

Draft order returned for issue

LW
26/5/41

34/26/5

Date. Initials.

G.F. 18. 9/1

Home Dept.

DRAFT FOR APPROVAL.

SUBJECT :— Establishment — S. Kanara Dt.—

J. M. Patel — retired process server Dt. Court, S. Kanara — leave salary overdrawn — waiver of recovery and refund of amount so far recovered — Sanctioned.

When received for fair copying ..		
When copied ..		27.5.41
When examined..		
When signed ..		
When despatched.		

READ AGAIN _____, dated _____ 19____

" " _____ " _____ 19____

READ *ALSO* :—

C. No. 13608 E From the High Ct. Madras, Roc. No. 2324/41 B3 dated 1.5.1941 p.c.

" _____ " _____ " _____ " _____ 19____

" _____ " _____ " _____ " _____ 19____

~~Order~~ / ~~Ms. Recolution Rout.~~ No. 2497, dated 26-5 1941

Cf. p 11 of O.S. 2222 (P) 2.5.41

P. 125

Sanction is accord to the waiver of recovery of the sum of Rs. 12-4-0 (Rupees twelve and annas four only) being the leave salary overdrawn by J. M. Patel retired process server, Dt Court, South Kanara and to the refund to the process server of the amount so far recovered from him towards the leave salary overdrawn.

Sd/- 26/5

Van — Post — Messenger
Dpd by
Dpd. Initials.
Date 27/5 194

Cf. Fin. Sanction p 2 ng ?

Cf. Fin. Sanction p 37 ng ?

To

The Hon'ble the C.J. (with C.)

The Puisne Judges' Secretary (with copy of Pet-28)

The Fin. Secretary.

Sd/- 28.5.41

23/5